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A-524

No.

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- 18) Record Plat No. 11487 (Resubdivision of Part of Lots 45 and 46)
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- 21) Certified Zoning map showing location of site
- 22) Legal Advertisement as published in the April 5, 2006 edition of the *Gaithersburg Gazette*
- 23) Notice of Public Hearing as sent April 5, 2006
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Pd. \$200⁰⁰

BOARD OF APPEALS

VARIANCE APPLICATION

In accordance with Chapter 24, Article VII, Section 24-188 of the City Code

Application No.	A-524
Date Filed	3-28-06
Property Posted	4/5/06
Legal Ad	4/5/06
BOA Hearing	4/20/06
Decision	
Date of Decision	

SUBJECT PROPERTY 22 MARYLAND AVENUE
 ADDRESS _____ ZONING CLASSIFICATION R90
 LOT 11 BLOCK _____ SUBDIVISION PLANTY PARK
 APPLICANT CHRISTINE KIRBY TELEPHONE 301-990-0240
 ADDRESS 22 MARYLAND AVE

NATURE OF APPLICATION

Briefly describe application request referencing appropriate section of City Code.

SECTION REQUEST IS FOR A VARIANCE OF 14' OF THE REAR
 YARD REQUIREMENT IN THE R90 ZONE. (16' TO WOOD
 FRAME STRUCTURE & 5' FOR STAIRS/LANDSCAPE.) 24-32(c)

List case numbers of all applications filed within the past three (3) years pertaining to any portion of subject property.

10-29-78 VARIANCE OF 12' OF REAR YARD REQ'T FOR DECK (A-176)

SUBMISSION REQUIREMENTS

1. A written statement explaining the request to the Board of Appeals.
2. Supporting documentation, see list on reverse side.
3. Fees, see separate schedule.

I have read and complied with the submission requirements and affirm that all statements contained herein are true and correct.

Signature Christine Kirby Date 3/27/06

SUBMISSION CHECKLIST

In accordance with Chapter 24, Article VII, Section 24-188(c)(2) of the City Code

1. ☐ **Written statement** summarizing the petitioner's request.
2. ☐ **Survey plats, site plans or other accurate drawings** showing boundaries, dimensions, area, topography, and frontage of the property involved, as well as the location and dimensions of all structures existing and proposed from the nearest property lines.
3. ☐ **Plans, architectural drawings, photographs, elevations, and specifications** of other detailed information depicting fully the exterior appearance of the existing and proposed construction, including parking and access, exterior lighting, and signs involved in the petition.
4. ☐ **Certified copy of official zoning vicinity map** with a one-thousand-foot radius (circle) surrounding the subject property and other information to indicate the general conditions of use and existing improvements on adjoining and confronting properties. (Zoning maps are available from the Planning and Code Administration.)
5. ☐ **List and addresses of adjoining and confronting property owners or occupants** within two hundred (200) feet of the subject property. If such property is a condominium, cooperative or is owned by a homeowners' association the petitioner must provide their correct address and that of their resident agent. (Information can be researched in the Planning and Code Administration.)
6. ☐ **All additional exhibits** which the petitioner intends to introduce and/or the identification of exhibits intended to be introduced at the public hearing.
7. ☐ **A summary of what the petitioner expects to prove** (see criteria), including the names of petitioner's witnesses, summaries of the testimony of expert witnesses, and the estimated time required for presentation of the applicant's case.
8. ☐ **All expert reports shall be filed at least fifteen (15) days prior to the public hearing.**
9. ☐ **A list of names and addresses of person whom you wish to be notified of the public hearing**, other than adjacent property owners.
10. ☐ **Required fee.**

CRITERIA

In accordance with Chapter 24, Article VII, Section 24-189(c) of the City Code

The Board of Appeals may authorize a variance from the terms of the Zoning Ordinance upon proof by the evidence of record that the property under consideration is unique and unusual in a manner different from the surrounding properties to the extent that the unique or unusual circumstances causes the zoning standards to impact disproportionately on the property and further, upon proof from the evidence of record that:

- By reason of exceptional narrowness, shallowness, shape, topographical conditions or other extraordinary situations or conditions peculiar to a specific parcel of property or improvements thereon, the strict application of the term and regulations of this chapter would result in peculiar or unusual practical difficulties to, or exceptional or undue hardship upon, the owner's use of his property.
- Such variance is the minimum reasonably necessary to overcome the aforesaid exceptional circumstances.
- Such variance will not be detrimental to the use and enjoyment of neighboring properties.
- Such variance can be granted without substantial impairment to the approved Master Plan affecting the subject property.
- Such variance will not substantially impact or affect the character of the surrounding neighborhood.
- The extraordinary situation or conditions or the exceptional or undue hardship was not caused or created by the petitioner or any predecessor in interest.
- The grant of the variance will not permit or authorize a use of property, prohibited or not permitted under the terms of this chapter.

MARYLAND STATE CRITERIA FOR VARIANCE REQUESTS

In 1995, the Maryland Court of Special Appeals issued the following criteria for the Boards of Appeal to evaluate variance requests:

The variance process is at least a two-step sequential process.

1. The first step requires a finding that the property whereon structures are to be placed (or uses conducted) is, in and of itself, unique and unusual in a manner different from the nature of the surrounding properties such that the uniqueness or peculiarity of the property causes the zoning provision to impact disproportionately upon the property. If this finding cannot be made, the process stops and the variance must be denied. If, however, the first step results in a supportable finding of uniqueness or unusualness,, then the second step in the process is taken.
2. The second step is a determination whether an unreasonable hardship (or practical difficulty) resulting from the disproportionate impact of the ordinance caused by the property's uniqueness exists.

MISCELLANEOUS PAYMENT RECPT#: 31850
CITY OF GAITHERSBURG
31 SOUTH SUMMIT AVE.
GAITHERSBURG MD 20877-2098

DATE: 03/29/06 TIME: 11:15
CLERK: mfullert 1
CUSTOMER#:

PARCEL:

CHG: MISC OTHER MISCELLAN 200.00

REVENUE: 200.00

1 100 441300
ZONING/SUBDIVISION FEES
REF1: VARIANCE REF2:

CASH: 001 101000 CASH-BANK OF

200.00 PAID AMT

20 PAID BY NAME
RICHARD KIRBY PAY METHOD
CHECK

1970

AMT TENDERED: 22 MARYLAND
AMT APPLIED: 200.00
CHANGE: 200.00



Gaithersburg
A CHARACTER COUNTS! CITY

31850

CITY OF GAITHERSBURG
31 SOUTH SUMMIT AVENUE, GAITHERSBURG, MARYLAND 20877
301-258-6330

RECEIPT

FROM

NAME

ADDRESS

FOR

TOTAL AMOUNT

\$

200.00

DATE

BY

PETITIONER SUMMARY

22 Maryland Avenue

March 31, 2006

HARDSHIP

Lots in the applicant's neighborhood are deep. In most cases, the lots are 200' in depth. The applicant's lot ranges from 98' to 122' in depth. The applicant's lot also has an additional 10' of street dedication, which further constricts the buildable depth. This is unusual, and most houses are much more closely located to the street.

REASONABLE NECESSITY

The 16' variance sought for the main structure is reasonably necessary to construct a Family Room / Sunroom to accommodate daily interaction among family members, allow a comfortable furniture layout, and provide circulation space for the gatherings of a large extended family. An additional 5' of variance is requested for a 3' set of stairs beyond a 2' fireplace bumpout. The stairs are directed into the most usable part of the yard, and tie into a landing/deck, which would provide south facing outdoor seating.

NEIGHBORING USE / ENJOYMENT

With existing trees and adjacent structures to serve as screening, the proposed addition will not be detrimental to neighboring properties. (See photographs/supporting letters.)

MASTER PLAN IMPACTS

The property is located almost 1000' from Route 355 within the R90 Zone, which is unlikely to change. Therefore, the proposed addition fits into this residential context. The adjacent single family dwelling at 24 Maryland Avenue is owned by Asbury Methodist Home. This home is currently being rented by one of their managers, and its use is unlikely to change.

NEIGHBORHOOD IMPACTS

The addition will be barely noticed from the street. From the south, there's a short frame of vision past the garage at 20 Maryland Avenue. Any view of the proposed addition is blocked to the east by the existing house. To the north, a stand of evergreens bordering the Asbury property blocks the view to the proposed addition, which is located toward the south side of the property. The character of the neighborhood will not change.

CAUSE OF HARDSHIP

Though the petitioner's shallow lot was created with a re-subdivision in 1977, relief has been granted in the past with Case #A-176 approved in 1978. This case granted a variance of 12' of the rear yard requirement.

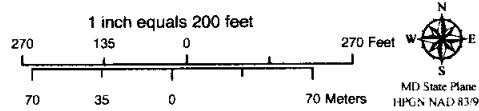
CHANGE OF USE

The granting of the variance will not permit a use of the property other than currently allowed.



22 Maryland Avenue

Project Name: mad * 11 Jan-2006 * .mxd

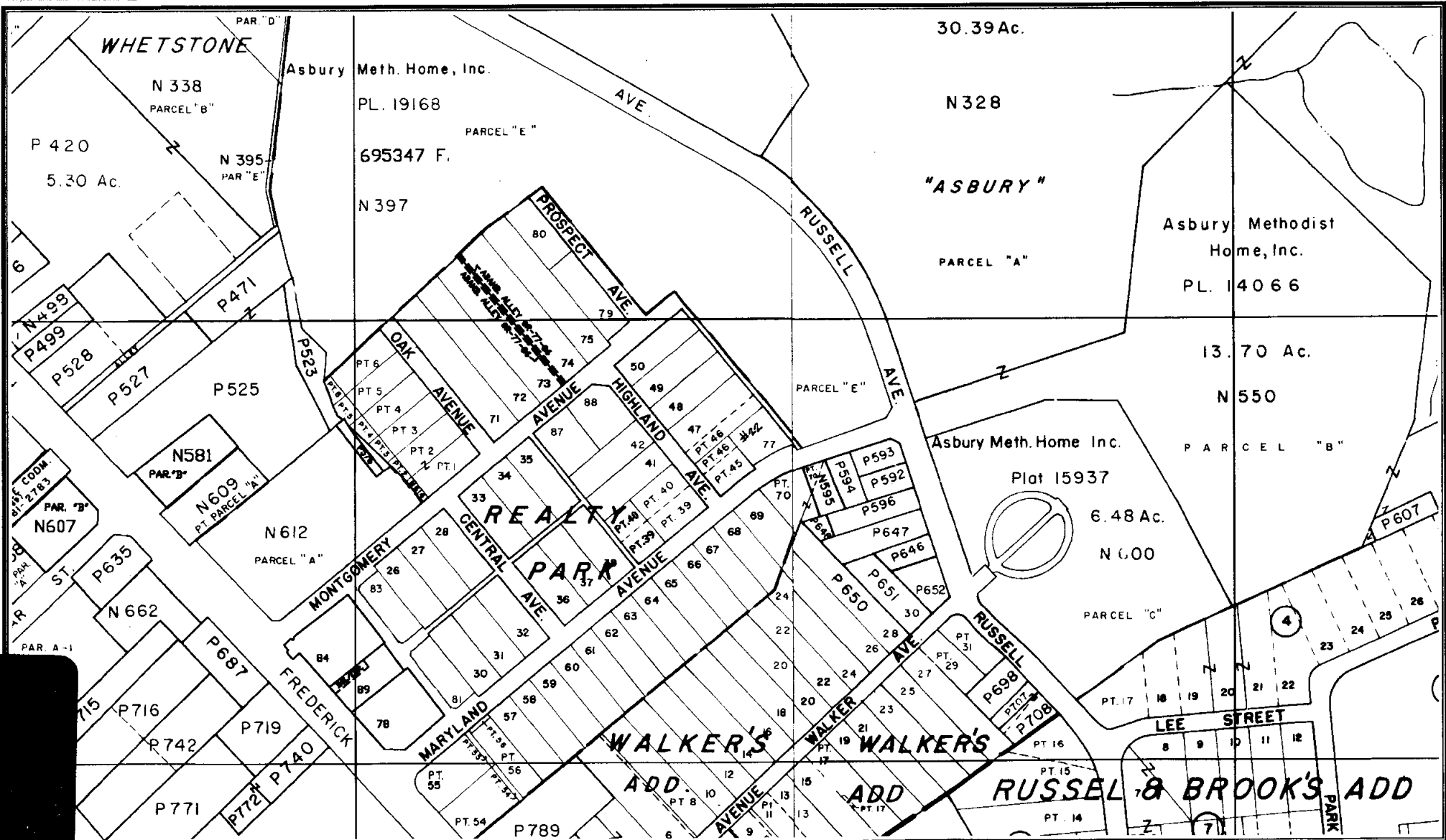


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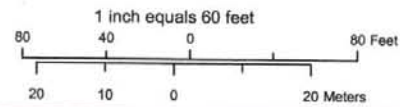
City of Gaithersburg
Planning and Code Admin
31 S Summit Ave
Gaithersburg, MD 20877
(301) 258-6330
www.gaithersburgmd.gov



PENGAD-Bayonne, N.J.
Box
#5
4/20/06

22 Maryland Avenue

ProjectName.mxd • 11-Jan-2006 • 222



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Gaithersburg, MD 20877
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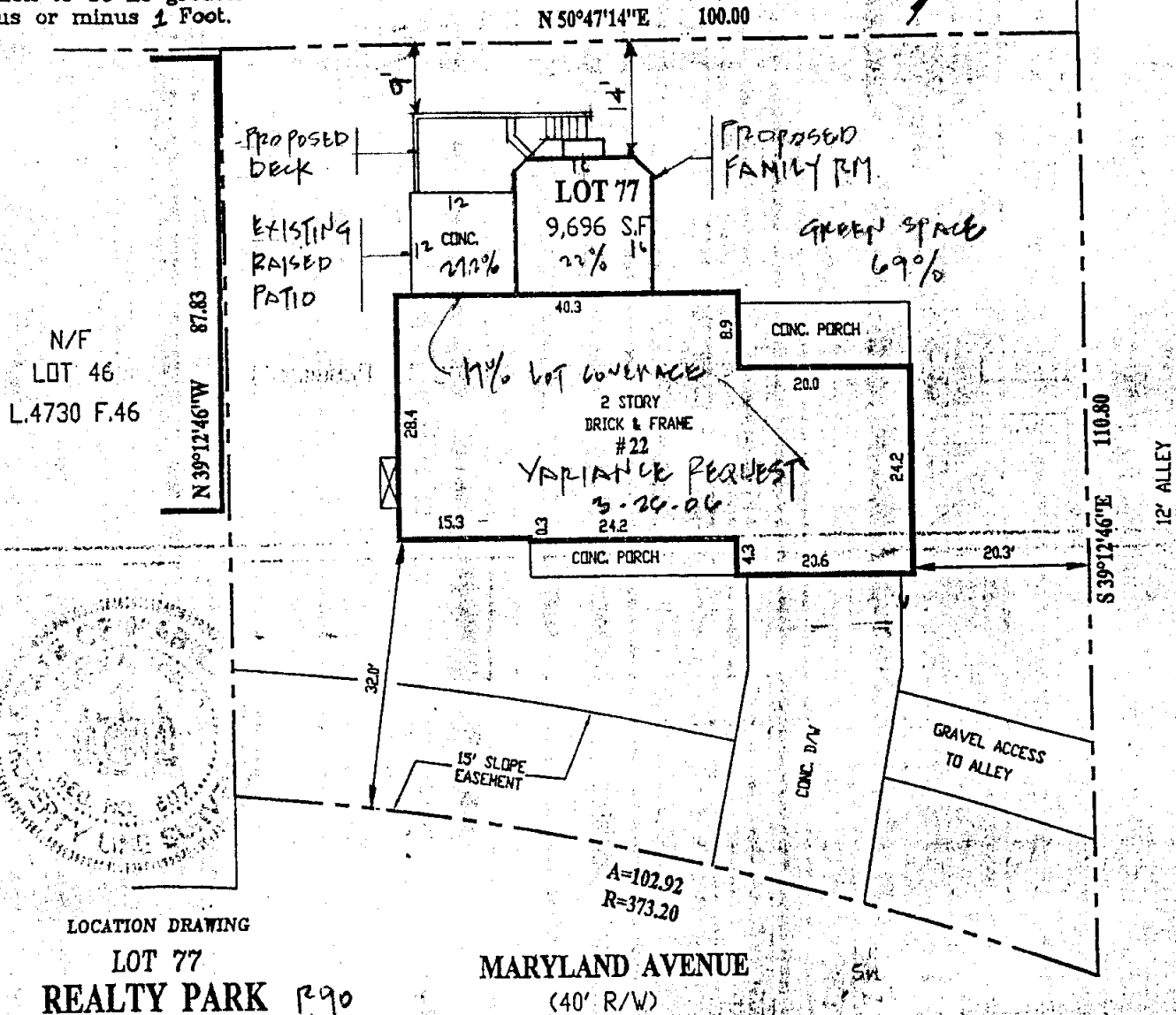


CONSUMER INFORMATION NOTES:

1. This plan is a benefit to a consumer insofar as it is required by a lender or a title insurance company or its agent in connection with contemplated transfer, financing or re-financing.
2. This plan is not to be relied upon for the establishment or location of fences, garages, buildings, or other existing or future improvements.
3. This plan does not provide for the accurate identification of property boundary lines, but such identification may not be required for the transfer of title or securing financing or re-financing.
4. Building line and/or Flood Zone information is taken from available sources and is subject to interpretation of originator.

Notes

1. Flood zone "C" per H.U.D. panel No. 240050-0004B.
2. Setback distances as shown to the principal structure from property lines are approximate. The level of accuracy for this drawing should be taken to be no greater than plus or minus 1 Foot.



LOCATION DRAWING

LOT 77
REALTY PARK 290

MONTGOMERY COUNTY, MARYLAND

SURVEYOR'S CERTIFICATE

"THE INFORMATION SHOWN HEREON HAS BEEN BASED UPON THE RESULTS OF A FIELD INSPECTION PURSUANT TO THE DEED OR PLAT OF RECORD. EXISTING STRUCTURES SHOWN HAVE BEEN FIELD LOCATED BASED UPON MEASUREMENTS FROM PROPERTY MARKERS FOUND OR FROM EVIDENCE OF LINES OF APPARENT OCCUPATION."

Jeffrey A. Foster
MARYLAND PROPERTY LINE SURVEYOR REG. NO. 587

REFERENCES

PLAT BK. 101
PLAT NO. 11487

LIBER
FOLIO



SNIDER & ASSOCIATES
SURVEYORS - ENGINEERS
LAND PLANNING CONSULTANTS
2 Professional Drive, Suite 216
Gaithersburg, Maryland 20879
301/948-5100, Fax 301/948-1288

DATE OF LOCATIONS

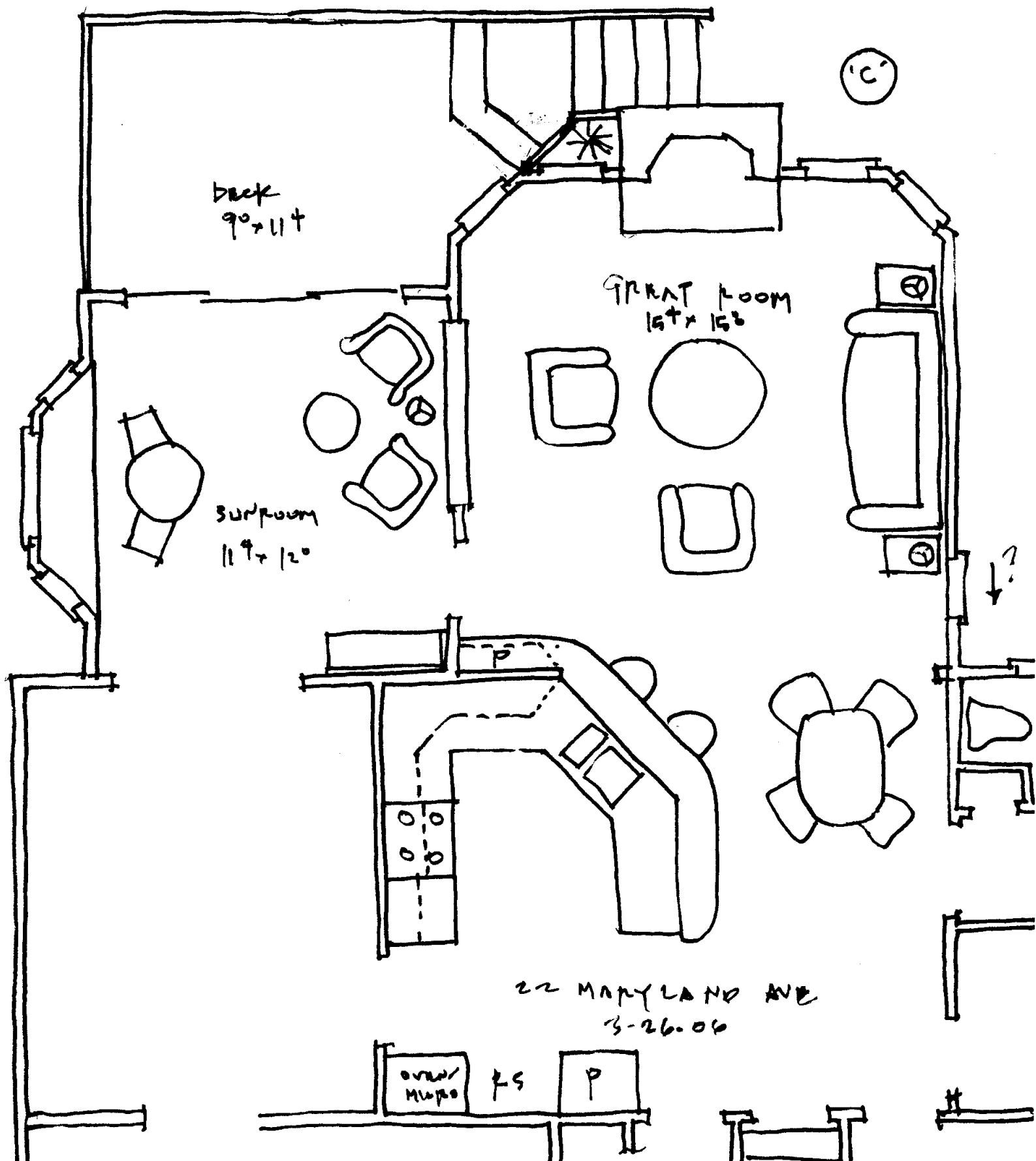
WALL CHECK:

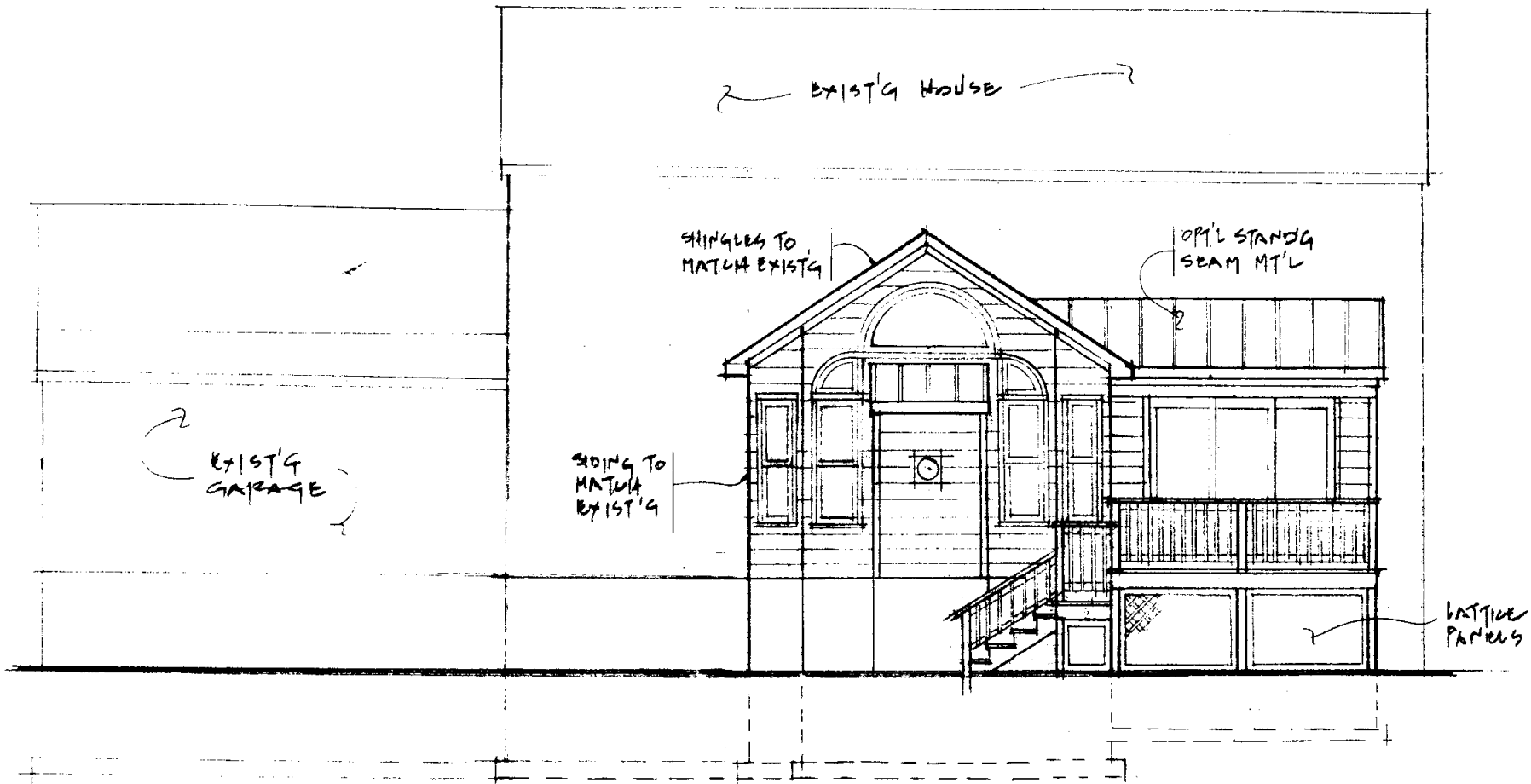
HSE. LOC.: 03-15-01

SCALE:

DRAWN

JOB NO





KIRBY ADDITION
3-26-06

PHOTOGRAPHIC SUMMARY

March 31, 2006

- 'A' Rear Southern View to 20 Maryland Avenue
- 'B' View off Existing Patio to 3 Highland Avenue
- 'C' Holly Trees Beyond Rear of Subject Property
- 'D' Northerly View toward Asbury Property
- 'E' View from Maryland Avenue looking North
- 'F' View from Maryland Avenue looking South

A

PENGAD-Boyonne, N.J.
Box #10
4/20/06



'B'

PENGAD-Bayonne, N.J.
Bot
#11
4/20/06





PENGAD-Bayonne, N.J.

B04
#12

4/20/00

'D'

PENGAD-Bayonne, N.J.

B04
#13

4/20/06

'E'

PENGAD Bayonne, N.J.

B04
#14

4/20/06



'F'



PENGAD-Bayonne, N.J.
B04
#15
4/20/00

BOARD OF APPEALS
Gaithersburg, Maryland

RESOLUTION GRANTING

AN APPLICATION FOR A VARIANCE OF 12 FEET OF THE REAR
YARD REQUIREMENT IN THE R-90 ZONE FOR LOT 77, REALTY
PARK, AT 22 MARYLAND AVENUE, GAITHERSBURG, MARYLAND

A-176

O P I N I O N

Application A-176 is a petition for a Variance of twelve feet of the rear yard requirement in the R-90 Zone filed by Marvin F. and Rosemary E. Lewis. The property in question is located at 22 Maryland Avenue, Lot 77, Realty Park, resubdivision of part of Lots 45 and 46. The Variance is requested to allow the construction of a deck which would extend twelve feet into the rear yard setback requirement.

The public hearing was held by the Board of Appeals on Thursday, June 29th, 1978, at 7:30 p.m. at Gaithersburg City Hall. Notice of the hearing was published in the June 8th, 1978 issue of the Gaithersburg Gazette and the property was properly posted.


The Board reviewed the list of exhibits and heard the applicant present plans for the proposed completion of the deck. Adjoining property owners expressed no opposition.

The City's Zoning Ordinance permits the Board of Appeals to authorize, in specific cases, Variances from the terms of the Ordinance.

R E S O L U T I O N

NOW, THEREFORE BE IT RESOLVED, by the Board of Appeals of the City of Gaithersburg on the 29th day of June, 1978, that Case A-176, the petition of Marvin F. and Rosemary E. Lewis, for a Variance of twelve feet of the rear yard setback requirement in the R-90 Zone be granted; the property at 22 Maryland Avenue being subject to periodic monitoring by the City of Gaithersburg Department of Licenses and Inspections as to site erosion problems that may eventually impact abutting property owners.

I, Charles R. Walker, certify that the foregoing Resolution was unanimously adopted by the Board of Appeals on the 29th day of June, 1978.


Charles R. Walker
Charles R. Walker
Chairman

PLAT No 11487

SURVEYOR'S CERTIFICATE

I hereby certify that the plan shown hereon is correct; that it is a subdivision of all the land conveyed by Marvin E. Lewis and Rosemary E. Lewis, his wife, to Regina L. Lewis by deed dated August 10, 1976 and recorded in Liber 4750 at Page 46, among the land records of Montgomery County, Maryland; that it is also a resubdivision of part of Lots 45 and part of Lot 46, Realty Park, a plat of which is recorded among the aforesaid land records in Plat Book 3 of Plat 126.

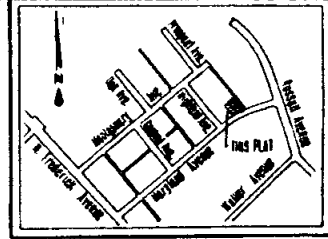
Iron pipes shown thus — and monuments shown thus — are in place as indicated hereon.

The total area included in this plat is 10,736 square feet. The area dedicated to public use by this plat is 1,838 square feet.

Dated: Nov. 12, 1976

R. Humphrey Cissel
R. Humphrey Cissel
Professional Land Surveyor
Maryland No. 4087

CURVE TABLE					
No.	Radius	Δ	Arc	Tangent	Chord
1	375.20	15° 45' 37"	103.05	51.86	101.76
2	343.38	15° 25' 28"	101.91	51.77	101.81



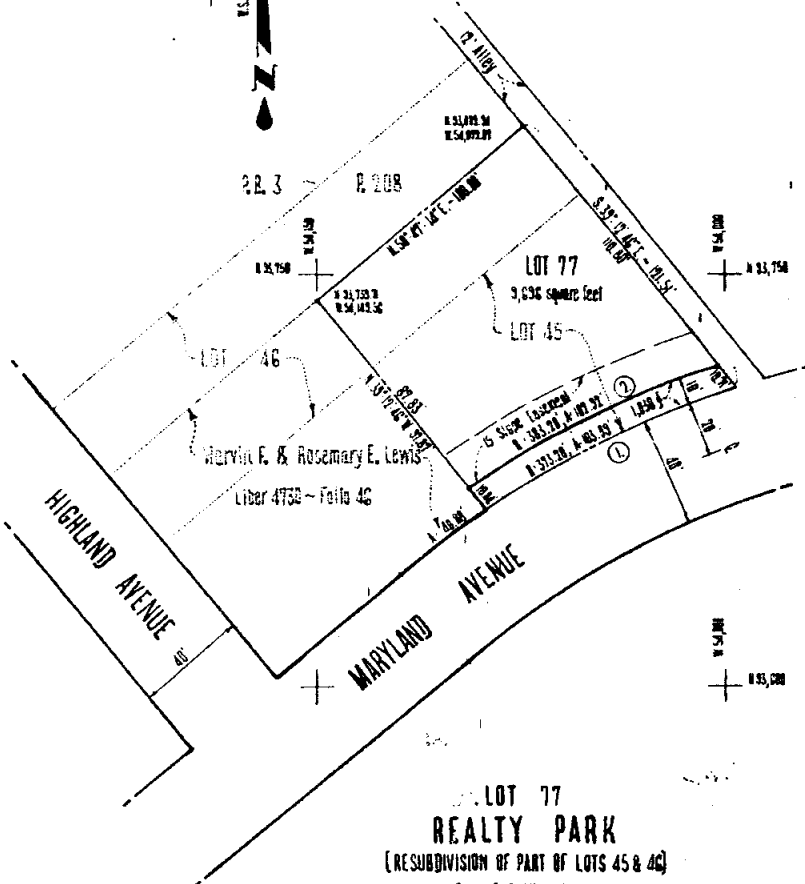
VICINITY MAP
Scale: 1" = 600'

OWNERS' DEDICATION

I, Regina L. Lewis, owner of the property shown and described hereon, hereby adopt this plan of Subdivision, establish the minimum building restriction lines, dedicate to public use that part of Maryland Avenue as shown hereon, and establish for the use and benefit of the City of Gaithersburg, Maryland, its successors and assigns, a slope easement 15 feet wide, adjacent, contiguous and parallel to the street right-of-way line shown hereon, said slope easement to be automatically extinguished after all required public improvements have been lawfully completed and accepted for maintenance by the appropriate public agency.

There are no debts of action, leases, liens, mortgages, or trusts on the property included in this plan of Subdivision.

Janet H. Green *Regina L. Lewis*
Witness Regina L. Lewis



LOT 77
REALTY PARK
(RESUBDIVISION OF PART OF LOTS 45 & 46)

City of Gaithersburg
Montgomery County, Maryland
Scale: 1" = 30' November, 1976

R. HUMPHREY CISSEL, SURVEYS
3 West Argyll Street
Rockville, Maryland 20850
301 762-2660

CITY PLANNING COMMISSION
GAITHERSBURG, MARYLAND

Chairman *Mary B. Ward*
Secretary *Donald R. Johnson*
Date: Feb. 16, 1977

Recorded: _____
Plat Book: _____
Plat No: _____

R-232

MARYLAND STATE ARCHIVES

March 27, 2006
Saul Matheny
3 Highland Avenue
Gaithersburg, MD 20877

Caroline Seiden, Planner
Staff Liaison to the Board of Appeals
City of Gaithersburg
31 South Summit Avenue
Gaithersburg, MD 20877

Re: Variance Request for Addition
22 Maryland Avenue

Dear Ms. Seiden,

Our neighbor Christine Kirby has explained her request for a variance into the rear setback that abuts our property. We understand that the variance request will be heard at the April 20, 2006 Board of Appeals meeting date.

The following materials were provided:

Aerial Photograph dated 1-11-06

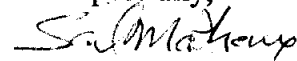
Tax Map dated 1-11-06

House Location Survey dated 3-26-06

Preliminary Floor Plan /Elevations dated 2-26-06

Based upon this information, it would appear that the proposed addition is mostly screened from view by our garage, and Holy trees. In my opinion, the proposed addition will not be detrimental to the continued use and enjoyment of our property, and herewith indicate our support for the proposed project.

Respectfully,



Saul Matheny

March 27, 2006

Caroline Seiden, Planner
City of Gaithersburg
31 South Summit Avenue
Gaithersburg, MD 20877

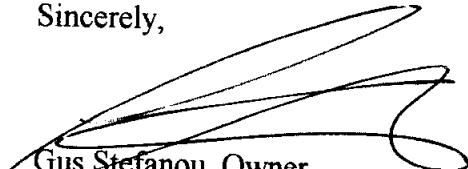
Re: Proposed Kirby Addition

Ms. Seiden,

Christine Kirby has explained her request for a variance to facilitate the construction of a proposed addition onto the back of her house. She has also given me copies of plans that will be used in support of her case at the April hearing.

This project should not in any way adversely impact my own property, will add value to her property, and the neighborhood. Therefore, I wish to indicate my support for the variance request.

Sincerely,



Gus Stefanou, Owner
20 Maryland Avenue



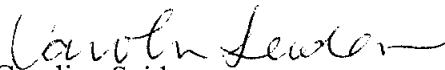
March 30, 2006

Ms. Karey Major
Law Section
The Gaithersburg Gazette
P.O. Box 6006
Gaithersburg, MD 20884

Dear Karey:

Please publish the following legal advertisement in your newspaper issue of **April 5, 2006**.

Sincerely,


Caroline Seiden
Planner

chs

ASSIGN CODE: PHA-524/Acc. #133649

NOTICE OF PUBLIC HEARING

The Board of Appeals of the City of Gaithersburg will hold a public hearing on the variance application A-524, filed by Christine Kirby, on

THURSDAY
APRIL 20, 2006
AT 7:30 A.M.

or as soon thereafter as it may be heard in the Council Chambers at City Hall, 31 South Summit Avenue, Gaithersburg, Maryland. The application requests a twenty-one (21) foot variance of the thirty (30) foot rear yard setback required for structures by Section 24-32(c) of the Zoning Ordinance. This variance is being requested for a house addition in the R-90 (Medium Density Residential) Zone at 22 Maryland Avenue, Lot 77, Realty Park, Gaithersburg, Maryland.

Further information may be obtained from the Department of Planning and Code Administration at City Hall, 31 South Summit Avenue, between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday.

Caroline Seiden
Planner

City of Gaithersburg • 31 South Summit Avenue, Gaithersburg, Maryland 20877-2098
301-258-6300 • FAX 301-948-6149 • TTY 301-258-6430 • cityhall@gaithersburgmd.gov • www.gaithersburgmd.gov

MAYOR
Sidney A. Katz

COUNCIL MEMBERS
Stanley J. Alster
Geraldine E. Edens
Henry F. Marraffa, Jr.
John B. Schlichting
Michael A. Sesma

CITY MANAGER
David B. Humpton

MODE = MEMORY TRANSMISSION

START=MAR-30 10:26

END=MAR-30 10:27

FILE NO.=732

STN NO.	COMM.	ABBR NO.	STATION NAME/TEL NO.	PAGES	DURATION
001	OK	<11>	GAZ LEG	002/002	00:00:39

-THE CITY OF GAITHERSBURG -

***** -PLAN AND CODE - ***** 3012586336- *****



Gaithersburg
A CHARACTER COUNTS! CITY

FAX TRANSMITTAL FORM

SEND TO:

Karey Major
Gaithersburg Gazette

FAX NO.:

FROM:

Caroline Seiden

FAX NO.:

301-258-6336

TELEPHONE NO.:

301-258-6330

DATE:

3/30/06

TIME: 10:22

NO. OF PAGES ATTACHED:

1

MESSAGE:

Legal Ad for April 5th is attached.

Thanks!

- Caroline

**IF YOU EXPERIENCE DIFFICULTY IN RECEIVING THIS TRANSMISSION,
PLEASE CALL 301-258-6330**

City of Gaithersburg 31 South Summit Avenue Gaithersburg, MD 20877-2098
plancode@gaithersburgmd.gov www.gaithersburgmd.gov

MAYOR
Sidney A. Katz

CITY COUNCIL MEMBERS
Stanley D. Alster
Geraldine E. Edens
Henry F. Marraffa, Jr.
John B. Schlichting
Michael A. Sesma

CITY MANAGER
David B. Lumpton

CITY OF GAITHERSBURG
31 South Summit Avenue
Gaithersburg, Maryland 20877
Telephone: 301-258-6330

**BOARD OF APPEALS
NOTICE OF PUBLIC HEARING**

The City of Gaithersburg Board of Appeals will conduct a Public Hearing on a Variance as noted below.

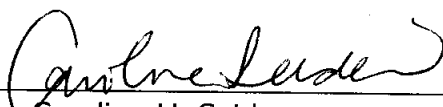
Application Type: **VARIANCE**
File Number: **A-524**
Location: **22 MARYLAND AVENUE**
Petitioner: **CHRISTINE KIRBY**
Day/ Date/Time: **THURSDAY, APRIL 20, 2006, 7:30 P.M.**
Place: **COUNCIL CHAMBERS**
 31 SOUTH SUMMIT AVENUE


In accordance with Section 24-187, of the City of Gaithersburg Zoning Ordinance, the Board of Appeals will conduct a public hearing on the above-referenced application in the Council Chambers at City Hall, 31 South Summit Avenue, on **Thursday, April 20, 2006**, at 7:30 p.m. or as soon thereafter as this matter can be heard.

The application requests a twenty-one (21) foot variance of the thirty (30) foot rear setback required for structures by Section 24-32(c) of the Zoning Ordinance. This variance is being requested for a house addition in the R-90 (Medium Density Residential) Zone at 22 Maryland Avenue, Lot 77, Block , Realty Park, Gaithersburg, Maryland.

Further information may be obtained from the Department of Planning and Code Administration at City Hall, 31 South Summit Avenue, between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday.

CITY OF GAITHERSBURG

By: 
Caroline H. Seiden
Planner
Planning & Code Administration



NOTICES SENT THIS 5TH DAY OF APRIL, 2006, TO:

APPLICANT:

Christine Kirby

INTERESTED PARTIES AND PROPERTY OWNERS WITHIN 200 FEET OF SUBJECT PROPERTY:
(A complete list is available in the Planning and Code Administration.)

CITY STAFF:

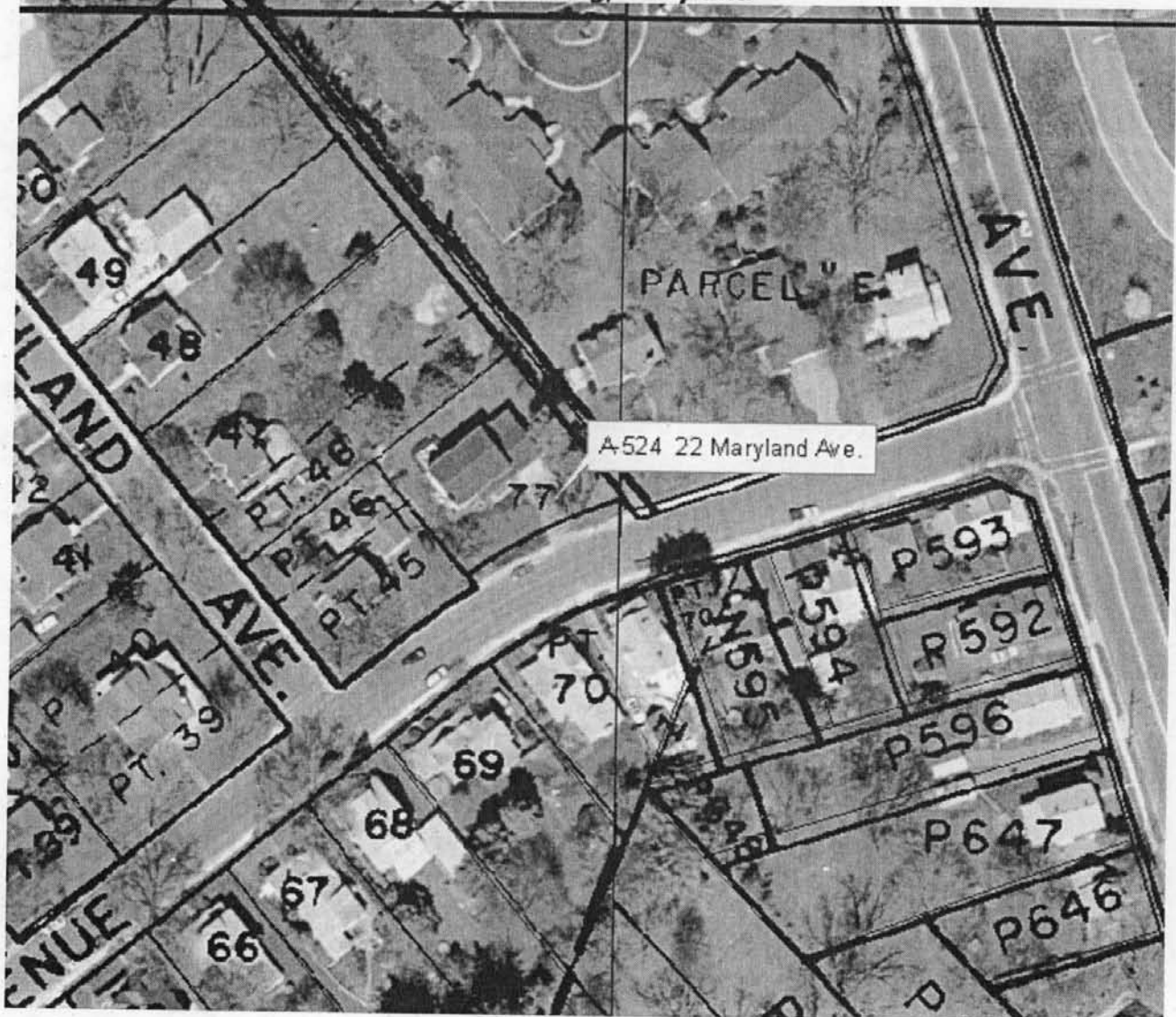
Dave Humpton, City Manager
Cathy Borten, City Attorney
Britta Monaco, Public Information Office
Doris Stokes, City Manager's Office
Greg Ossont, Director, Planning &
Code Administration
Trudy Schwarz, Community Planning Dir.
Wes Burnette, Director, Permits & Inspections
Jeff Baldwin, City Web Administrator (via email)

BOARD OF APPEALS MEMBERS:

Harvey Kaye, Chairperson
Richard Knoebel, Vice Chairperson
Gary Trojak
Victor Macdonald
Carol Rieg

PLANNING COMMISSION

A-524 22 Maryland Avenue, Gaithersburg, Maryland



ALICE L WRIGHT
208 RUSSELL AVE
GAITHERSBURG MD 20877

ASBURY METHODIST HOME INC
201 RUSSELL AVE
GAITHERSBURG MD 20877

CHRISTINE M KIRBY
22 MARYLAND AVE
GAITHERSBURG MD 20877

CONSTANTINE E STEFANOU
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IAN WAGREICH
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JAMES F MACE
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PATRICIA C D MARTIN
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PATRICK S MAHON
MARGARET C BINNS
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ROBERT L & D M GHERNA
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ROBERT P BROWN
25 MARYLAND AVE
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ROSALIE & M W LAMB
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SAUL D MATHENY
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STEPHEN PARRISH
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